IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1570 OF 2007

Mukesh Dinanath Ramani .. Petitioner
V/s
Commissioner of Customs (E.P.) & Ors. .. Respondents

Mr.Atish Roy for the Petitioner.
Mrs.S.V.Bharucha with Mr.A.J.Rana for the Respondents.

CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.

DATE : 5th April, 2007.

P.C.:

1. Heard the learned counsel for the parties. By this Petition, the Petitioner is seeking enforcement of the order dated 1st August, 2006 made by the Commissioner of Customs (Appeal) by which the Commissioner of Customs (Appeal) has directed refund, holding thereby that there was no case of unjust enrichment.

2. The learned Counsel for the Respondents states that, aggrieved by the aforesaid order of the Commissioner of Customs (Appeal), the Respondents have already filed an appeal before the CESTAT in the month of October, 2006, however, till date the Respondents have not filed the stay application before the CESTAT.

3. Under the aforesaid facts and circumstances, we make it clear that, in the event the Respondents do not obtain stay from the CESTAT with regard to the aforesaid order passed by the Commissioner of Customs (Appeal), within a period of six weeks from today, the Respondents

shall refund the amount, as directed by the Commissioner of Customs (Appeal). The said payment, however, shall be subject to the final outcome of the pending appeal.

4. Writ Petition stands disposed of.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**